

Will AT&T Qualcomm lead to 700 MHz interoperability?

Lost in the furor over the FCC's release of a staff report that was critical of AT&T's (NYSE:T) proposed \$39 billion acquisition of T-Mobile USA is the fact that the FCC also has indicated there is an order circulating to approve AT&T's \$1.93 billion purchase of Qualcomm's (NASDAQ:QCOM) Lower D and E Block 700 MHz spectrum, with conditions.

No one publicly knows what those conditions might be, or even when the order will be voted on, but a coalition of Lower A Block 700 MHz licensees, led by Vulcan Wireless, want the FCC to help solve the fragmentation of the 700 MHz band in conjunction with the passage of the AT&T/Qualcomm transaction. According to a recent filing Vulcan made with the FCC, Vulcan and other A Block licensees want the FCC to require that within two years of the close of the deal, all of AT&T's 700 MHz LTE devices will work across all Lower 700 MHz spectrum, and not just the Band Class that AT&T currently is assigned.

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If the FCC attaches such a transaction-specific condition to the deal, Vulcan contends that it will allow Lower A Block licensees to gain scale and traction for 700 MHz devices and that it will benefit wireless competition.

I don't know if the FCC will bite, but I do know that the issue of 700 MHz fragmentation needs to be addressed--sooner rather than later. As my colleague Mike Dano has pointed out, the A Block licensees first filed a petition with the FCC in September 2009 on the issue; it's time to make a decision on the topic, one way or the other.

At this point, it's worth taking a step back to understand the context of what the Vulcan is asking the FCC to do. The 700 MHz band, unlike the AWS or PCS bands, is fragmented into several different Band Classes. This means, for example, that Verizon Wireless' (NYSE:VZ) 700 MHz LTE devices operate on a different flavor of LTE than AT&T's devices, and the two are not interoperable. AT&T, through the 3GPP, carved out a band class for its Lower B and Lower C Block licenses, Band Class 17, because it contended that its devices would receive harmful interference from Lower 700 MHz license holders in Band Class 12, which includes Vulcan and other carriers.

Now, here's where it gets interesting. Vulcan, along with other Lower A Block licensees--including King Street Wireless (U.S. Cellular's bidding partner), Cavalier Wireless, Continuum 700, Cox Wireless, C Spire Wireless and MetroPCS (NYSE:PCS)--conducted interference tests they said shoot holes in AT&T's argument.

"The study found that the anticipated interference circumstances were unfounded and the underlying assumptions put forth for a separate Lower 700 MHz Band Class 17 were overstated," the filing states. "The real world data confirms that the use of Band Class 12 would not lead to degraded service for Lower 700 MHz B & C Block users. The data demonstrates that Band Class 17 B and C

Blocks already suffer greater interference threats from each other than what would be introduced from a unified Lower 700 MHz Band Class that includes the Lower A Block."

Vulcan and the other carriers argue they are not asking the FCC to mandate that AT&T support multiple Band Classes in its devices, just that AT&T revert back to using Band Class 12 along with the other Lower 700 MHz licensees there. Without such a condition, Vulcan and the others contend, AT&T will be more able to "exert undue influence within the 3GPP process to the detriment of other Lower 700 MHz band licensees." In other words, AT&T will have more weight to throw around and will use its relationship with vendors to relegate the A Block licensees to a device ghetto.

AT&T representatives did not respond to my requests for comment on Vulcan's filing. However, Dean Brenner, Qualcomm's vice president of government affairs, said that normally a study like the one Vulcan and the other carriers conducted needs to be put through the 3GPP and tested. He also noted that Qualcomm is making chipsets for A Block licensees to use in their devices, and that Qualcomm does not see the public harm that the A Block licensees contend will exist if the transaction goes through without the interoperability condition. Moreover, he said that since there is already a separate proceeding on 700 MHz interoperability--the FCC's rulemaking 11592--the FCC should continue to focus on that. "This is really nothing new and we would say that the FCC should really deal with this matter in a rulemaking setting where everyone is represented, rather than in a transaction," he said. Where does the FCC stand on the issue? Will they impose the condition Vulcan wants? It's tough to say. FCC officials note that the Wireless Bureau has had a lot on its plate dealing with the AT&T/T-Mobile deal, but that 700 MHz interoperability is high on the agenda. The FCC's standard for imposing conditions on a deal is that the public interest benefits outweigh potential harms, which are mitigated in the process. One FCC official I spoke with said imposing interoperability might be a bridge too far.

And what will Vulcan do if the FCC doesn't side with the Lower A Block licensees' position? The company will have to go back to the drawing board, Vulcan spokesman Scott Wills told me. "It is the only condition that matters," he said "If any other conditions are imposed they are window dressing. We are going to have to go back and re-evaluate what can be done. This is a no-brainer. We are asking that a wrong be corrected."

Whatever happens with AT&T/Qualcomm, it's clear that the issue of 700 MHz fragmentation and interoperability isn't going away. It needs to be addressed, one way or another.

Sincerely,

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